



Department of Homeland Security's Flawed Procedures in Determining Grant Allocations Undercut Preparedness and Response Efforts

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Homeland Security, and Select Intelligence Oversight Panel**

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Summary

The Department of Homeland Security has repeatedly shortchanged grants to first responders in high-risk regions, particularly through the Urban Area Security Initiative, the only program that is based exclusively on risk factors. In FY07, New York City will receive \$134.09 million from the program, down from more than \$205 million in FY05. While Congress has required funds to be risk-based, the Department has produced an FY07 allocation that has failed because:

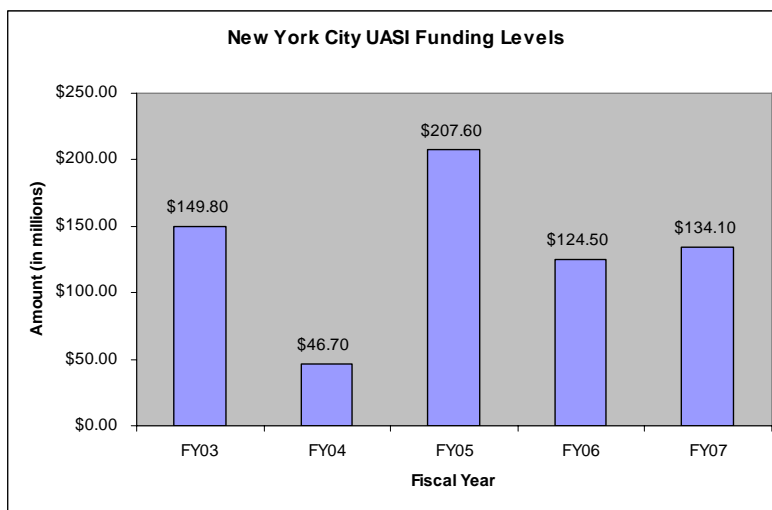
- It capped the amount of funds that the seven most at-risk areas could receive, forcing New York, Washington, DC, and a handful of other high-risk areas to compete against one another while protecting 45% of funds for 39 areas that are not in the highest-risk tier;
- It diminished the importance of actual terrorist threats when considering the risk of an attack to a community; and
- It awarded funds to regions that are not high-threat, high density areas, in violation of Congressional mandate and the purpose of the program.

This report will be updated as DHS releases additional information.

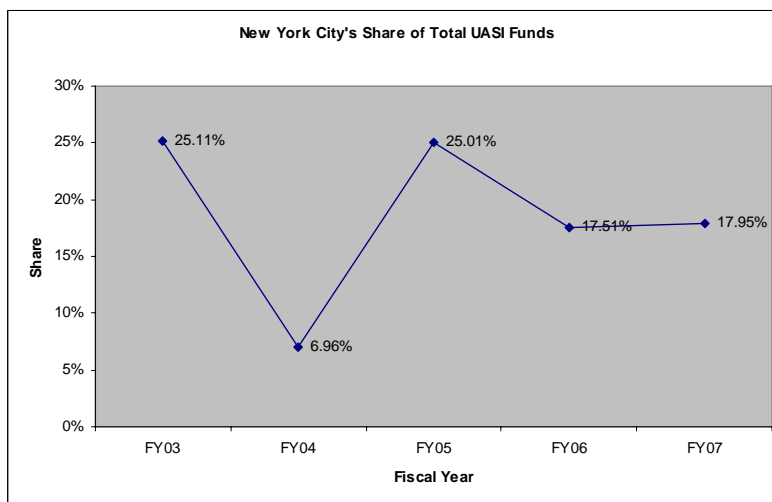
Since its creation, the Department of Homeland Security (DHS) has used a variety of methods to allocate homeland security grants to state and local governments. In many of the programs, particularly the Urban Area Security Initiative (UASI), DHS has wide discretion in awarding funds.

Public Law 109-295 required DHS to make applications for grants available no later than November 18, 2006. Grant guidance and application kits were not made available until January 2007. While the FY07 allocation methodology is an improvement over the FY06 process, it includes multiple procedural problems that have led to an inadequate allocation for New York and other high-risk areas, requiring local officials to find other revenue streams for vital security projects.

The chart below lists the amount of UASI funds New York City has received.



As you can see, the amount of funds has varied widely. The Department has previously defended its allocation process by stating that funding levels authorized by Congress have shifted every year. This difference in overall funding levels can be minimized by examining the share of total UASI funds that New York City has received.



The City's share of funds has also varied widely. DHS has made some changes to its methodology in determining UASI funding levels, but since the inception of the program Congress has dictated that DHS award funds using various risk factors.

The following is a list of 22 areas that received a larger percent increase in amount of UASI grants from FY06 to FY07 than New York: the National Capital Region, the Bay Area, Houston, Dallas, San Diego, Anaheim/Santa Ana, Phoenix, Baltimore, Seattle, Las Vegas, the Twin Cities, Denver, Indianapolis, Pittsburgh, San Antonio, Cleveland, Buffalo, Cincinnati, Honolulu, Oklahoma City, Columbus, and Memphis. Even if FY07 funds had been restored to a level in which New York would have the same share of funds that it had in FY05 – 25% – eight of those 22 areas would have received a larger percent increase.

This report outlines the Department's flawed procedures in determining risk allocations which undercut preparedness and response efforts.

Problems Specific to FY07 Grant Allocation

“After briefings by the Office of Grants and Training and the DHS Secretary, I believe this allocation process is indefensible, particularly the cap on available funds for the most at-risk regions. It makes no sense that threat takes a backseat to vulnerability and consequence in this process.” ~ Congresswoman Nita Lowey

Capping Funds for High-Risk Areas

The central problem is that, inexplicably, UASI funds for Tier I urban areas were capped at no more than 55% of total funds. DHS defines Tier I urban areas as those which, if attacked, would be certain to produce at least two of the following consequences: fatalities greater than 3,000; economic impact of \$50 billion or more; psychological impact requiring mass evacuations with prolonged absence; or loss of governance or mission execution that disrupts multiple regions for more than one week resulting in loss of necessary services to the public. Simply put, these are the areas that face the greatest risk of being attacked.

Problem: Before completing a risk analysis or reviewing a single proposal, DHS chose to cap funds for New York, Washington, DC, and other high risk targets. This safeguarded nearly half of UASI funds for areas that are not at significant risk of an attack.

DHS determined that six urban areas would be placed in Tier I: the Bay Area, Chicago, Houston, Los Angeles/Long Beach, the National Capital Region, and New York City/Northern New Jersey. By placing a cap on the amount of funds that high-risk areas could receive, DHS was effectively safeguarding nearly half of the funds for 39 Tier II urban areas.

The FY06 UASI allocation was widely ridiculed for slashing funds for NY and the National Capital Region, the two most likely targets of a terrorist attack, by 40% each. Tracey Henke, who oversaw the FY06 allocation process as the Assistant Secretary for the Preparedness Directorate's Office of Grants and Training, resigned in October 2006. Many hoped that this was a sign that much-needed improvements would be made in the

FY07 allocation process. However, the cap on Tier I areas illustrates that DHS chose to repeat the same mistakes. The table below illustrates how the arbitrary FY07 cap led to high-risk areas receiving approximately the same amount of funds as in FY06.

Urban Area	FY06 Level	FY06 % of Total	FY07 Level	FY07 % of Total	Change in FY07-FY06 % Total
Bay Area	\$28,320,000	3.99%	\$34,130,000	4.57%	0.58%
Chicago	\$52,260,000	7.35%	\$47,280,000	6.33%	-1.02%
Houston	\$16,670,000	2.35%	\$25,000,000	3.35%	1.00%
LA/LB	\$80,610,000	11.34%	\$72,580,000	9.72%	-1.62%
DC Area	\$46,470,000	6.54%	\$61,650,000	8.25%	1.71%
New York	\$124,450,000	17.51%	\$134,090,000	17.95%	0.44%
New Jersey	\$34,330,000	4.83%	\$36,070,000	4.83%	0.00%
<i>Total</i>	<i>\$383,110,000</i>	<i>53.91%</i>	<i>\$410,800,000</i>	<i>55.00%</i>	<i>1.09%</i>

As the chart indicates, although the total funding for FY07 increased, which is due to a larger appropriation of funds, the share that each Tier I area received compared to the overall level of funds remained relatively stagnant.

In FY06, the year in which Secretary Chertoff admitted DHS relied on too much “bean counting” and not enough common-sense, nearly 54% of total UASI funds went to the Tier I areas. In FY07, before DHS even evaluated a single application, it had limited the Tier I areas to no more than 55% of total funds. This lacks the common sense that also eluded DHS in FY06.

The cap limits the amount the most at-risk areas could receive. It essentially forces them to compete against one another while protecting funds for areas that are not high-risk. Had funding for each of these areas increased, the most the Tier I areas could hope for was to split 1.09% of total funds amongst themselves. By setting an arbitrary and unnecessary cap, DHS set itself up to fail once again. The Department has yet to provide a valid explanation as to why funds for Tier I areas were capped at 55%.

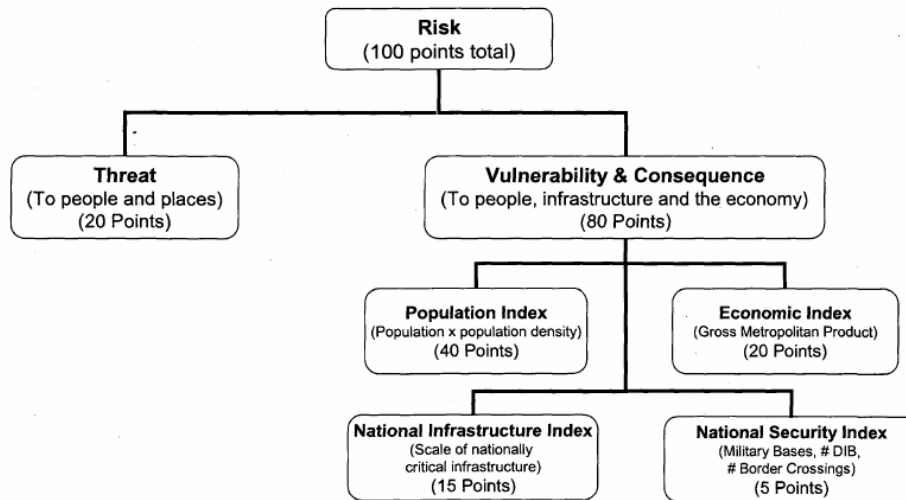
In fact, as DHS works to maintain the 55% cap, programs for Tier I regions that are more essential to national security than some of the initiatives funded for Tier II regions are likely left unfunded.

It is also important to note that for the first time in the program’s history, DHS linked the New York and New Jersey area. Each had been considered separately since FY03, but DHS has chosen to lump them together in FY07 (this explains why there are six Tier 1 areas in FY07 but there are seven urban areas listed in the above chart).

Mayor Bloomberg’s office has been notified that DHS scored the New York City UASI application in the top 5% of all proposals. Last year, the City’s application was ranked in the bottom 25%. If New York’s application was viewed as significantly better in FY07, the City’s share of funds should have increased by a greater amount than 0.44%. However, a cap on available funds for Tier I areas would make this nearly impossible.

Minimizing the Importance of Threat

In determining the relative amount of risk that each area faces, DHS assigned a point value to the threat, vulnerability, and consequence of an attack. Because there is no magic formula to determine risk, assigning risk scores is difficult. However, DHS made a misguided decision to minimize the importance of the threat of a terrorist attack by having threat represent only one-fifth of the total risk calculation. The following chart from the Office of Grants and Training outlines the value of each factor.



Vulnerability and consequence should certainly play a large role in the risk calculation. However, the Department should not downplay the actual threat of an attack. Terrorists have repeatedly attacked major cities throughout the world, including New York, the Washington, DC area, Madrid, London, Dubai, and Moscow. The areas with the greatest threat should receive the greatest amount of funds.

Problem: Vulnerability and consequence are important, but they should not be given four times the weight of the actual threat of an attack in calculating DHS funds. Failure to calculate grant allocations based more on threat decreases overall effectiveness of these vital resources.

An examination of actual terror threats and attacks clearly shows that New York is in great needs of funds. On June 21, 2006, Mayor Bloomberg testified before the House Homeland Security Committee that since 1990, there have been at least eighteen attacks or plots involving New York that were uncovered by law enforcement. These include the 1993 and 2001 World Trade Center attacks; al Qaeda plots to destroy the Holland and Lincoln tunnels, the George Washington Bridge, United Nations Headquarters, and chemical attacks in the subway system; anthrax attacks in 2001; three separate instances of security personnel from Iran's Mission to the United Nations videotaping critical infrastructure; and the arrest by NYPD detectives and FBI agents of an al Qaeda operative planning to bomb pubs, restaurants, and train stations in London. This testimony was prior to the June 2007 disclosure of the plot to destroy fuel containers at John F. Kennedy International Airport. New York, unlike many communities that receive UASI funds, faces significant threats from terrorists.

Unfortunately, these threats are minimized in the formula DHS has created to assess risk.

Vulnerabilities exist everywhere, but real threats do not. A smaller community could be considered vulnerable because of a relatively small police department or other factors that should be irrelevant unless there is an actual threat of an incident occurring in that community. Vulnerability and consequence should be considered in tandem with threat, not separately.

General Problems with DHS Grant Allocations

“As a New Yorker and a member of the Homeland Security and Appropriations Committees, I am outraged by the Department’s efforts to direct funds that have been set aside for high-threat cities away from New York and other high-risk areas to regions with significantly less risk.” ~ Congresswoman Nita Lowey

In addition to the items specific to the FY07 grant guidance and allocation process, DHS has continuously been plagued by several problems.

Number of UASI Recipients

Chief among the problems is the number of areas awarded UASI grants. This is the only grant program that is supposed to be dedicated exclusively to high-risk urban areas. State and local governments first received funds as part of Public Law 108-7, the FY03 Consolidated Appropriations Resolution. The law provided \$100 million for high threat urban areas. Seven areas – New York, Washington, DC, Chicago, Los Angeles, San Francisco, Houston, and Seattle – received funds. Congress instructed the Department of Justice’s Office of Justice Programs (prior to the creation of DHS) to award funds taking into account credible threat, vulnerability, the presence of infrastructure of national importance, population, and identified needs of the jurisdiction’s public safety agencies.

Problem: UASI is the only DHS grant program allocated exclusively on the basis of risk. It began in FY03 with only seven recipients, but since that time, DHS has awarded funds to up to 50 areas. This diminishes the amount available for high-risk areas and violates Congressional intent to spend these funds in high-threat areas. Regions that are not high-threat should not receive UASI grants.

Since the creation of the program, DHS has expanded the program to areas that fail to meet the definition of high-density, high-risk cities. In the first supplemental spending bill in FY03, Congress appropriated another \$700 million in funds. Combined with the funds from the PL 108-7, grants were awarded to 30 urban areas, ranging from a high of \$149 million for New York City to \$5.7 million for Tampa, FL.

In FY04, 50 cities were awarded funds, ranging from \$46.7 million for New York City to \$6.3 million for San Antonio, TX. In FY05, once again 50 cities were awarded funds, ranging from \$207 million for New York to \$5 million for Toledo, OH.

In FY06, 46 regions received funds. However, while switching to regions made it appear as though fewer areas received grants, funds were even more diluted because some regions incorporated more than one city that had previously received funds. For

instance, in FY05 Oakland, San Francisco, and San Jose had received funding separately. In FY06, DHS combined each city into one Bay Area region. While this may very well help encourage greater cooperation and planning among large jurisdictions, it is important to point out that the program expanded beyond the 50 cities that had received funds the previous two years.

In addition, 11 of the 46 FY06 UASIs were labeled “sustainment regions.” The purpose of this was to provide funds to areas that had previously been awarded UASI grants but no longer remained in the top 35 areas to finish ongoing projects. DHS did not rule out the possibility of a sustainment region receiving future funds, but it implied that only 35 might receive funds in the future.

In FY07, 46 regions once again received funds. Four areas on the FY06 list were dropped in FY07 – Louisville, Baton Rouge, Omaha, and Toledo. Four areas were added to the FY07 list – Norfolk, El Paso, Providence, and Tucson. DHS abandoned the sustainment approach, with seven of the 11 FY06 sustainment regions receiving funds in FY07.

The program has expanded beyond its original intent. Since his first public statement as Secretary in March 2005, Chertoff has stressed a risk-based approach to guide DHS policies. Yet in allocating UASI grants, the Department has consistently moved away from risk-based funding by unnecessarily adding areas as UASI recipients.

The Department’s decision to award funds to areas that are neither high-density nor high-risk violates Congressional intent. Public Law 109-295 clearly states that funds must be used for this purpose. By ignoring this requirement, DHS dilutes funding by allowing areas that should not receive funds to do so. In turn, this reduces the amount for the most at-risk regions that actually meet the definition of high-density, high-threat areas. The Appropriations Committee has never instructed the Department to award UASI grants to areas other than those at high-risk, which is exactly what the Department has done.

The UASI program is one of many Homeland Security Grant Programs. Every area of the country should receive federal funds. However, areas that aren’t high-threat should not be given UASI grants. These areas should use funds from the State Homeland Security Grant Program, the Local Law Enforcement Terrorism Prevention Program, the Metropolitan Medical Response System program, and the Emergency Management Performance Grant program to enhance their preparedness and response capabilities.

Neglecting Local Investments

Numerous federal grant programs are based on the ability of state and local governments to match federal funds. The Homeland Security Grant Programs generally do not have matching requirements. While this benefits local governments, it allows the federal government to pay for equipment, exercises, training, and other items that are not necessarily priorities of some local public safety agencies.

New York and other high-risk areas have made significant investments to prevent, prepare, and respond to acts of terrorism and other emergencies. Yet this investment does not make a significant difference when DHS determines allocation levels.

Problem: DHS does not adequately consider local investment, punishing areas like New York which spends hundreds of millions of dollars to reduce the vulnerability and consequences of an attack. State and local governments that are unwilling to use their own resources should not have an advantage over those that do in the allocation process.

In fact, areas that have not taken steps to lessen the impact of terrorism because there is no real chance of an event occurring may benefit from the allocation process. Areas that heavily invest in successful security procedures can reduce their vulnerability, which is given more weight than actual threats by DHS. This penalizes communities that are at such a high degree of risk that they must find revenue streams, either federal, state, or local, to pay for security programs.

New York is in the process of completing and implementing its Lower Manhattan Security Initiative, a \$90 million program to detect, track, and deter terrorists. A similar program in London, the so-called “Ring of Steel,” was used to track suspects after the 2005 London subway bombings and the June 2007 car bomb plot. Thus far, the majority of funds for this project have been provided by New York City.

This program lowers the vulnerability and possibly deters attacks, lowering the threat level that the city faces. Because New York is – and all indications are that it will continue to be – the likeliest target of a U.S. attack, it has acted responsibly to implement many of the largest security initiatives in the country. **While other areas wait for a check from DHS to implement security plans, New York will do so regardless of the availability of federal funds because it cannot afford not to.**

Improvements in the FY07 Process

Despite its faults, DHS did make several improvements compared to the FY06 process. **First, it placed an emphasis on protecting critical infrastructure.** Last year, the Department may have considered approximately 200,000 assets in calculating risk scores. This number is far above the number of critical infrastructure assets likely to be the target of an attack. The National Asset Database, which serves as the catalog of the nation's assets, contained less than 78,000 assets at the time of the FY06 award announcement.

In FY07, the Office of Grants and Training worked with the Department's infrastructure protection analysts, sector specific agencies, and the states to review approximately 2,100 assets. This was a wise decision that led to a focus on actual and potential targets, instead of laundry lists of assets in various communities.

Second, DHS has created a pilot project to allow Tier I UASI regions to use up to 25% of grants on counter-terrorism personnel. This is a welcome change from previous years when funds were limited to equipment, training, exercises, planning, and selected other items. There is no substitute for having “boots on the ground,” and DHS made a wise choice to allow the most at-risk areas use funds for counter-terrorism officers.

Third, the Department used a true minimum when determining formula grant awards for the State Homeland Security Grant Program (SHSGP) and the Law Enforcement Terrorism Prevention Program (LETPP). Section 1014 of Public Law 107-56, the USA PATRIOT Act, requires that each state receive no less than 0.75% of total appropriations. When the states, Washington, DC, Puerto Rico, and territories are factored in, 40% of formula grants must be equally shared.

In FY06, DHS employed a “base-plus” method, awarding each state 0.75% of total funds then conducted a risk analysis and, because each state has some risk score, each state was awarded additional funds on top of the base level. In FY07, DHS employed a true minimum by conducting the risk analysis first, then awarding funds and, where necessary, “topping-off” funding levels to 0.75% for those states that would have received less than the minimum amount.

Recommendations and Conclusions

“After the Department’s latest failure to adequately allocate grants on the basis of risk, I will introduce legislation to overhaul this process, ensuring that resources are directed to the areas that need them the most.” ~ Congresswoman Nita Lowey

Congresswoman Lowey’s legislation will:

- Make actual threats of an attack the most important factor in allocating UASI, SHSGP, and LETPP grants;
- Prevent DHS from awarding UASI funds to any areas that are not high-risk or high-threat areas;
- Require the Department to consider local investment in the allocation process; and
- Lower the minimum guarantee for formula grants to 0.25% of total formula grant funds.

These changes will require the Department to focus on true threats. The 9/11 Commission Report stated that homeland security assistance should not be a source of general revenue sharing and that it should supplement local resources based on risk and vulnerabilities that merit additional support. While the Department has concocted various risk-assessment tools to distribute grants, they fail to produce adequate results.

Because threat levels and local needs vary so widely across the country, it is impossible for DHS to create a one-size-fits-all formula to allocate funds. The Department has a great deal of discretion in determining awards, which it should use to implement common-sense changes so that the areas most likely to be targets are able to prepare, prevent, and respond to an attack.